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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,417	01/24/2001	John R. Wullert II	1256-US	4772

7590

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EXAMINER

BUI, BING Q

ART UNIT

PAPER NUMBER

2642

DATE MAILED: 03/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/768,417**

Applicant(s)

**Wullert II**

Examiner

**Bing Bui**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 24, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 2, 4 and 7 are objected to because of the following informalities: for consistency with base claim 1, the limitation "said call routing module" contained in the recited claims should be changed to --said message routing module--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-8 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Bajzath et al (U.S. Patent No. 6,144,644).

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**Regarding claim 1**, Bajzath et al teach a communication system for advising an intended called party recipient of the availability of the calling party sender for return messages, said system comprising:

a data terminal (i.e., "PC 130") associated with each of said calling and called parties (see Fig. 2, element "END USER ENVIRONMENT 205"; it is noted that for illustration, the only one "end user environment" is shown in Fig. 2 because it is inherent that in a communication system, more than one "end user environments" can be connected to a SSP and to be served by such SSP; and it is also noted that in one communication process between two users, one end user can be a calling party and another one can be a called party who receives a call from the calling party)

a message routing module (i.e., "SSP 140") for interconnecting said calling and called parties (see Fig. 2, element "SSP 140" and col. 3, lns 52 - 54; it is noted that for illustration, the only one "end user environment" is shown in Fig. 2 because it is inherent that in a communication system, more than one "end user environments" can be connected to a SSP and to be served by such SSP; and it is also noted that in one communication process between two users, one end user can be a calling party and another one can be a called party who receives a call from the calling party); and

a presence processor (i.e., "SCP 145") connected to said data terminal of said calling and called parties and obtaining from a calling party information as to the status of a calling party (see Fig. 2, element "SCP 145" and col. 6, lns 12 - 15),

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said message routing module (i.e., "SSP 140") communicating with said presence processor (i.e., "SCP 145") in response to said calling party not completing a call to said called party and said presence processor in response thereto forwarding to the data terminal of said called party status information with respect to said calling party (see Fig. 6A, steps "600" - "660" and col. 6, Ins 7- 16 and Ins 33 - 53).

**Regarding claim 2**, Bajzath et al further teach the presence processor (i.e., "SCP 145") includes circuitry for communicating with said data terminals (i.e., "END USER ENVIRONMENT 205") and said message routing module (i.e., "SSP 140"), a datastore (i.e. "CALL WAITING INTERNET SERVER 215") for storing status information, and status processor (see Fig. 2 and col. 4, Ins 22 - 38).

**Regarding claim 3**, Bajzath et al further teach the communication system is a telephone system (see Fig. 2 and element "PSTN 210").

**Regarding claim 4**, Bajzath et al further teach the message routing module (i.e., "SSP 140") is a call agent (it is noted that SSP interacts with other components (i.e., SCP, other SSP or terminals) within a communication network for appropriately routing a call requested by a calling party associated with such SSP is considered "an agent", because by definition, an agent is an entity acting on behalf of another.

**Regarding claim 5**, Bajzath et al further teach communications between said call agent (i.e., "SSP 140"), said presence processor (i.e., "SCP 145"), and said calling

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and called parties, including said data terminals, are through a packet-based communication network (see Fig. 2 and col. 4, lns 18 - 38).

**Regarding claim 6**, Bajzath et al further teach a residential gateway (i.e., "MODEM 135") between each of said calling and called parties and said packet-based communication network (see Fig. 2, element "MODEM 135" and col. 36 - 42; it is noted that the "MODEM 135" is appropriate for reading on gateway because by definition, gateway is an entrance and exit into a communications network).

**Regarding claim 7**, Bajzath et al further teach the message routing module is a telephone switch (i.e., "SSP 140") and said presence processor is a service control point (i.e., "SCP 145") (see Fig. 1, elements "SSP 140" and "SCP 145"; and col. 3, lns 49 - 58).

**Regarding claim 8**, Bajzath et al further teach a packet based network (i.e., Internet Service Provider "ISP 115") connecting said service control point (i.e., "SCP 145") to said data terminals (i.e., "PC 130") of said calling and called parties. (See Fig. 2 and col. 4, lns 18 - 38).

**Regarding claim 10**, Bajzath et al further teach the status information indicates the calling party's availability (i.e., telephone number where the calling party can be reached) for return communication from the called party (see col. 7, lns 16 - 30).

**Regarding claim 11**, Bajzath et al further teach the presence processor is operative to dynamically update said status information (see col. 6, lns 33 - 53).

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***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bajzath et al (U.S. Patent No. 6,144,644) as applied to claim 1 above, and further in view of Srinivasan (U.S. Patent No. 5,185,782).

**Regarding claim 9,** Bajzath et al fail to teach the data terminal includes a scheduling calendar, said presence processor obtaining status information for said scheduling calendar. However, with respect to Figure 2, Srinivasan teach an "ACD SYSTEM 110" that includes a "DATABASE ADJUNCT PROCESSOR 107" for storing callback record that contains scheduled available time and telephone number for receiving a callback requested by an original caller obtained by a "CALLBACK RECORD GATHERING MODULE 203" (see col. 2, lns 14 - 22 and col. 3, ln 50 - col. 4, ln 22). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a system for obtaining and storing the caller's scheduled available time and telephone number for placing a callback as requested by

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the caller, as taught by Srinivasan, into communication system of Bajzath et al in order to provide benefit to both calling and called parties.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cheung et al (U.S. Patent No. 6,456,711) disclose a customer profile is sent to a busy called party's personal computer for requesting a callback.

Polcyn (U.S. Patent No. 6,310,947) discloses a calendar for scheduling a callback.

Dunn et al (U.S. Patent No. 6,169,795) disclose a system and method for callback via an Internet.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bing Bui whose telephone number is (703) 308-5858. The examiner can normally be reached on Monday through Thursday from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314 and for formal communications intended for entry (please label the response



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"EXPEDITED PROCEDURE") or for informal or draft communications not intended for entry (please label the response "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Mar 23, 2003

A handwritten signature in black ink, appearing to read 'Bing Bui', written in a cursive style.

**BING BUI**  
**PATENT EXAMINER**